

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of the Department of Insurance and Financial Services

In the matter of:

The Recovery Project
Petitioner

File No. 21-1801

v

Meemic Insurance Company
Respondent

Issued and entered
this 10th day of February 2022
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On December 2, 2021, The Recovery Project (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of Meemic Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of a bill pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued the Petitioner a bill denial on October 27, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on December 17, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on December 28, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on January 11, 2022.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on January 19, 2022.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy treatments rendered on August 2, 4, 6, 9, 11, 13, 16, 18, and 20, 2021. The Current Procedural Terminology (CPT) codes at issue include 97110 and 97112, which are described as therapeutic exercise and neuromuscular reeducation. In its *Explanation of Benefits* letter, the Respondent referenced the American College of Occupational and Environmental Medicine (ACOEM) guidelines for the cervicothoracic and low back areas as well as Official Disability Guidelines (ODG) for fracture of the vertebral column with spinal cord injury. The Respondent stated that the injured person participated in more than 482 physical therapy sessions and the treatment exceeded guideline recommendations.

With its appeal request, the Petitioner submitted medical documentation which identified the injured person's diagnoses as abnormal abnormalities of gait and mobility, lack of coordination, generalized muscle weakness, multiple sclerosis, diffuse traumatic brain injury (TBI) with loss of consciousness of an unspecified duration. The Petitioner explained that the injured person was involved in a motor vehicle accident in December of 2005 and developed the following secondary complications: "paraplegia, respiratory compromised, wounds/poor skin integrity, joint contractures, osteoporosis, exacerbation of his [multiple sclerosis] and depression."

In its supporting narrative, the Petitioner referenced the American Physical Therapy Association (APTA) clinical practice guidelines for documentation and medical literature concerning physical therapy treatment for adults with spinal cord injury. The Petitioner noted that the ODG guidelines for auto injuries do not apply to the injured person's condition and that these guidelines are "designed to guide adjusters and utilization review specialists on how to manage a case in the time frame of 1 year post injury" and that ODG guidelines "do not address the pathology and injuries appropriate to [the injured person's] injuries."

The Petitioner's request for an appeal stated:

The [ODG] guidelines do not consider the need of skilled service to optimize function, maintain the [injured person's] condition or to prevent or slow further deterioration...The care that [the injured person] received was active and not passive in nature with the goal of improved function, which supports the clinical practice guidelines mentioned in the ODG guidelines.

In its reply, the Respondent reaffirmed its position and referenced ACOEM guidelines for individuals with spinal cord injury. The Respondent stated that the rendered treatments exceeded guideline recommendations in frequency and duration.

III. ANALYSIS

Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate treatment and overutilization.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was not supported on the dates of service at issue and the treatment was overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is an actively practicing physical therapist with knowledge in the care of individuals with spinal cord injuries related to a motor vehicle accident who receive physical therapy treatment. The IRO reviewer has recent experience in treating patients with the same or similar conditions as the injured person. In its report, the IRO reviewer referenced R 500.61(i), which defines "medically accepted standards" as the most appropriate practice guidelines for the treatment provided. These may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or national or professional medical societies, board, and associations. The IRO reviewer relied on the American Physical Therapy Association (APTA) guidelines for the management of severe traumatic brain injury and medical literature relevant to spinal cord injury for its recommendation.

The IRO reviewer noted that the injured person suffered a spinal cord injury T7-T10 ASIA B and a mild TBI from the motor vehicle accident, with multiple sclerosis and "associated impairment and functional limitations related to these diagnoses." The IRO reviewer explained that the APTA guidelines for spinal cord injury rehabilitation "incorporate objective measures be performed and re-adjusted during [a] treatment program to demonstrate improvements in functional mobility." Based on the submitted documentation, the IRO reviewer stated:

In regard to [the injured person], his cardiovascular complications and deficits were not measured to show improvement in his condition. Finally, no home exercise program (HEP) was maintained or adjusted to [the injured person's] condition, nor was it reinforced in order to improve functional mobility and reduce functional decline and decreased burden of care.

The IRO reviewer further stated that the injured person's 482 physical therapy sessions are "outside the APTA guidelines for his clinical scenario" and noted that his goals based on clinical notes were "body mass index reduction, bone health, and increasing the number of repetitions of arm curling."

The IRO reviewer stated that the injured person “did not have objective measures that were updated and re-adjusted to show his improvement, increased functional mobility or maintaining his baseline.”

Further, the IRO reviewer opined:

In addition, [the injured person’s] cardiovascular health was noted as being insufficient and his physical therapy focused on treating this impairment, however, no cardiovascular objective measures were used to show [his] progress, such as pulse oximeter or volume of oxygen (VO2) maximum rate measures. Furthermore, physical therapy treatment notes did not indicate that [the injured person] was established on a HEP to maintain his progress and reduce burden of care and injury and/or fall risk. [The injured person]’s applied physical therapy interventions were not functional in nature, and they were routine in nature.

The IRO reviewer recommended that the Director uphold the Respondent’s determination that the physical therapy treatments provided to the injured person on August 2, 4, 6, 9, 11, 13, 16, 18 and 20, 2021 were not medically necessary, and were overutilized in frequency or duration, in accordance with medically accepted standards, as defined by R 500.61(i).


IV. ORDER

The Director upholds the Respondent’s determination dated October 27, 2021.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person’s eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X 

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford